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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO.          | CONFIRMATION NO. |
|--|-------------|-----------------------|------------------------------|------------------|
| 10/566,149   | 04/18/2007  | Adegboyega K. Oyelere | 26505-525 NATL               | 1956             |
| 30623  | 7590        | 12/31/2008            |                              |                  |
| MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C<br>ONE FINANCIAL CENTER<br>BOSTON, MA 02111 |             |                       | EXAMINER<br>LOEWE, SUN JAE Y |                  |
|  |             |                       | ART UNIT                     | PAPER NUMBER     |
|  |             |                       | 1626                         |                  |
|  |             |                       | MAIL DATE                    | DELIVERY MODE    |
|  |             |                       | 12/31/2008                   | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/566,149 | <b>Applicant(s)</b><br>OYELERE ET AL. |  |
|                              | <b>Examiner</b><br>SUN JAE Y. LOEWE  | <b>Art Unit</b><br>1626               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,7,10-17,20-23,26-33,44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) 7,12,20-23,28,29,31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1, 3, 4, 6, 7, 10-17, 20-23, 26-33, 44 and 45 are pending in the instant application. Claims 7, 12, 20-23, 28, 29 and 31 remain withdrawn from further consideration.

### ***Response to Amendment***

2. The amendments to the claims filed on October 14, 2008 have been fully considered. The 35 USC 112 1<sup>st</sup> paragraph rejections have been overcome and are thus hereby withdrawn. the 35 USC 102 rejection is maintained and hereby made FINAL. See response to Applicant's remarks below, Section 4.
  3. The objections to claims 1, 3, 4, 6, 10, 11, 13-17, 26, 27, 30, 32, 33, 44 and 45 are maintained. The scope of examined subject matter is that previously denoted (office action dated May 14, 2008). Claimed compounds that fall outside of this scope have been withdrawn and are thus considered non-elected subject matter. Applicant will be entitled to rejoinder of the non-elected species upon allowability of the generic claims.
  4. Applicant's remarks regarding 25 USC 112 support of the instantly claimed genus on the disclosure of 60/490,855 has been noted, however, it is not persuasive. The instantly claimed genus is broader than that of 60/490,855 - for example, see definition for Q. Thus, the prior art document antedates the instant priority. For this reason, the 35 USC 102 rejection is maintained.
- ### ***Conclusion***
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUN JAE Y. LOEWE whose telephone number is (571)272-9074. The examiner can normally be reached on M-F 7:30-5:00 Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/566,149  
Art Unit: 1626

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/Sun Jae Y. Loewe/  
12-29-2008

/Golam M. M. Shameem/  
Primary Examiner, Art Unit 1626